No. 93-1260

Supreme Court, U.S.
FILED
JUN 2 1994
OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1993

UNITED STATES OF AMERICA,

Petitioner,

v.

ALFONSO LOPEZ, JR.,

Respondent.

On Writ of Certiorari to the United States Court of Appeals for the Fifth Circuit

Brief of Center to Prevent Handgun Violence, American Federation of Teachers, Council of Great City Schools, National Association of Elementary School Principals, National Association of Secondary School Principals, National Education Association, National PTA, Major Cities Chiefs of Police, International Association of Chiefs of Police, National Association of Police Organizations, Fraternal Order of Police, Federal Law Enforcement Officers Association, Police Executive Research Forum and National Organization of Black Police Enforcement Executives As Amici Curiae In Support of the Petitioner

Of Counsel:
DENNIS A. HENIGAN
GAIL A. ROBINSON
CENTER TO PREVENT HANDGUN VIOLENCE LEGAL ACTION PROJECT
1225 Eye Street, N.W.
Washington, D.C. 20005
(202) 289-7319

ERWIN N. GRISWOLD
Counsel of Record
BARBARA McDOWELL
PETER J. WANG
JONES, DAY, REAVIS & POGUE
1450 G Street, N.W.
Washington, D.C. 20005
(202) 879-3939

Counsel for the Amici

QUESTION PRESENTED

Whether Congress acted within its authority under the Commerce Clause of the Constitution in enacting the Gun-Free School Zones Act, 18 U.S.C. § 922(q), which prohibits the possession of a firearm in or within 1,000 feet of a school.

TABLE OF CONTENTS

Page

TABLE OF AUTHORITIES iv

INTEREST OF THE AMICI 1

SUMMARY OF THE ARGUMENT 3

ARGUMENT 5

CONGRESS WAS ACTING WITHIN ITS CONSTITUTIONAL AUTHORITY TO REGULATE INTERSTATE COMMERCE WHEN IT ADOPTED THE GUN-FREE SCHOOL ZONES ACT 5

A. Congress Does Not Exceed Its Authority Under The Commerce Clause So Long As The Regulated Activity Could Rationally Be Found To Affect Interstate Commerce 6

B. Congress Could Rationally Have Concluded That The Gun-Free School Zones Act Regulates Activity That Affects Interstate Commerce 10

1. Congress Could Rationally Have Found That Firearm Possession, As A General Matter, Affects Interstate Commerce 12

2. Congress Could Rationally Have Found That The Possession Of Firearms In School Zones Affects Interstate Commerce . . . 17

CONCLUSION 24

TABLE OF AUTHORITIES

Cases **Page**

Columbia Broadcasting System, Inc. v. Democratic National Comm., 412 U.S. 94 (1973) 8

EEOC v. Wyoming, 460 U.S. 226 (1983) 7

FCC v. Beach Communications, Inc., 113 S. Ct. 2096 (1993) 8

Fullilove v. Klutznick, 448 U.S. 448 (1980) . . . . . *passim*

Gibbons v. Ogden, 22 U.S. (9 Wheat.) 1 (1824) 5

Gregory v. Ashcroft, 111 S. Ct. 2395 (1991) 10

Heart of Atlanta Motel, Inc. v. United States, 379 U.S. 241 (1964) 6,9,15

Hodel v. Indiana, 452 U.S. 314 (1981) . . . . . *passim*

Hodel v. Virginia Surface Mining & Reclamation Ass'n, 452 U.S. 264 (1981) 15

Katzenbach v. McClung, 379 U.S. 294 (1964) 6,7,10,15

Metro Broadcasting, Inc. v. FCC, 497 U.S. 547 (1990)) 8,11

NLRB v. Fainblatt, 306 U.S. 601 (1939) 5

Pennsylvania v. Union Gas, 491 U.S. 1 (1989) 10

Perez v. United States, 402 U.S. 146 (1971) . . . 6,9,10,14,15

Rostker v. Goldberg, 453 U.S. 57 (1981) 8

Stafford v. Wallace, 258 U.S. 495 (1922) 7

United States v. Bass, 404 U.S. 336 (1971) 10

United States v. Carolene Products Co., 304 U.S. 144 (1938) 7,9,10,16

United States v. Edwards, 13 F.3d 291 (9th Cir. 1993) 12

United States v. Evans, 928 F.2d 858 (9th Cir. 1991) 12

TABLE OF AUTHORITIES (Cont'd.)

	Page
United States v. Glover, 842 F. Supp. 1327 (D. Kan. 1994)	12
United States v. Hale, 978 F.2d 1016 (8th Cir. 1992), *cert. denied*, 113 S.Ct. 1614 (1993)	12
United States v. Holland, 841 F. Supp. 143 (E.D. Pa. 1993)	12
United States v. Hunter, 843 F. Supp. 235 (E.D. Mich. 1994)	12
United States v. McDougherty, 920 F.2d 569 (9th Cir. 1990), *cert. denied*, 499 U.S. 911 (1991)	12,17
United States v. Ornelas, 841 F. Supp. 1087 (D. Colo. 1994)	12
United States v. Wrightwood Dairy Co., 315 U.S. 110 (1942)	5
Usery v. Turner Elkhorn Co., 428 U.S. 1 (1976)	6
Wickard v. Filburn, 317 U.S. 111 (1942)	5,6,14
Woods v. Cloyd W. Miller Co., 333 U.S. 138 (1948)	7

Constitution & Statutes

U.S. Const. art. I, § 8, cl. 3	5,6
Gun-Free School Zones Act, Pub. L. No. 101-657, Title XVII, 104 Stat. 4845, 4857 (codified at 18 U.S.C. § 922(q)(1)(A) (Supp. IV 1992))	3,4,16
18 U.S.C. § 921(a)(25)	4
18 U.S.C. § 922(a)	11
18 U.S.C. § 922(e)	11
18 U.S.C. § 922(g)	11,16
18 U.S.C. § 922(h)	11
18 U.S.C. § 922(o)	9,16

TABLE OF AUTHORITIES (Cont'd.)

	Page
18 U.S.C. § 922(p)	9,16
21 U.S.C. § 801	20
21 U.S.C. § 841(a)(1)	12
21 U.S.C. § 845a	12
Pub. L. No. 90-351, § 901(a)(1), 82 Stat. 225 (1968)	11
Legislative History	
135 Cong. Rec. E3988 (daily ed. Nov. 20, 1989)	21
135 Cong. Rec. E4059 (daily ed. Nov. 21, 1989)	16
136 Cong. Rec. S6250 (daily ed. May 15, 1990)	16
136 Cong. Rec. S15609 (daily ed. Oct. 17, 1990)	16
136 Cong. Rec. S17595 (daily ed. Oct. 27, 1990)	18,21
138 Cong. Rec. E2492 (daily ed. Aug. 12, 1992)	16
139 Cong. Rec. S5402 (daily ed. May 4, 1993)	16
140 Cong. Rec. S59 (daily ed. Jan. 25, 1994)	16
140 Cong. Rec. S2172 (daily ed. March 1, 1994)	16
140 Cong. Rec. H3111 (daily ed. May 5, 1994)8	9
Automatic Assault Weapons Act of 1989: Hearings On H.R. 1190 and Related Bills Before the Subcomm. on Crime of the House Comm. on the Judiciary, 101st Cong., 1st Sess. (1989)	14,18
Gun-Free School Zones Act of 1990: Hearing on H.R. 3757 Before the Subcomm. on Crime of the House Comm. on the Judiciary, 101st Cong., 2d Sess. (1990)	*passim*
H.R. Rep. No. 99-495, 99th Cong., 2d Sess., *reprinted in* 1986 U.S.C.C.A.N. 1327	11

TABLE OF AUTHORITIES (Cont'd.)

Page

Violent Crime Control & Law Enforcement Act of 1993, H.R. 3355, § 2972, 103d Cong., 1st Sess., *reprinted as amended by the Senate at* 139 Cong. Rec. S17153 (daily ed. Nov. 24, 1993) 22

Miscellaneous Authorities

American Psychological Ass'n, *Violence & Youth: Psychology's Response, Vol. I: Summary Report of the American Psychological Ass'n Comm'n on Violence & Youth* (1993) 22

Terry Atlas, *4 Students Wounded Leaving D.C. School*, Chicago Tribune, Jan. 27, 1989, at 4M 19

Center to Prevent Handgun Violence, *Caught in the Crossfire: A Report on Gun Violence in our Nation's Schools* (Sept. 1990) 19,20

Robert Enstal & David Ibata, *School Rampage: 1 Dies, 6 Shot, Suspect Kills Self After Siege in Winnetka*, Chicago Tribune, May 21, 1998, at 1 19

Grand Jury Report on Juveniles and Firearms, Circuit Court for Baltimore City, 1987 May Term 18

Illinois Criminal Justice Information Authority, *Trends & Issues 91: Education & Criminal Justice in Illinois* (Nov. 1991) 18

Wendy Max & Dorothy P. Rice, *Data Watch: Shooting In The Dark: Estimating The Cost of Firearm Injuries*, Health Affairs 171 (Winter 1993) 13,14

Dorothy P. Rice *et al.*, *Cost of Injury in the United States: A Report to Congress* (1989) 13,16,20

Safeguarding Our Youth: Violence Prevention for Our Nation's Children, Forum Proceedings 8 (July 20-21, 1993) 21

TABLE OF AUTHORITIES (Cont'd.)

Page

Second Victim Dies After School Shooting Incident, New York Times, Sept. 30, 1988, at B-5 19

Silent Victims, Children Who Witness Violence, 269 JAMA 262 (Jan. 13, 1993) 22

Garen J. Wintemute & Mona A. Wright, *Initial and Subsequent Hospital Costs of Firearm Injuries*, 33 J. Trauma 556 (1992) 13

INTEREST OF THE AMICI[1]

The Center to Prevent Handgun Violence (the "Center"), chaired by Sarah Brady, is a non-profit organization working to reduce firearm deaths and injuries through education, research and legal advocacy. Through its Legal Action Project, the Center participates in key court cases throughout the nation, advocating legal principles to reduce gun violence. In addition, the Center pioneered the development of a gun violence educational curriculum now in use in major urban school systems from New York to Los Angeles. The purpose of the statute at issue here -- to keep guns out of the nation's schools -- is a core concern of the Center.

The members of the national education organizations that have joined the Center on the brief must address the threat of gun violence in the schools every day. Their interest in preserving federal criminal sanctions for the possession of guns in and near schools is direct and immediate.

The members of the law enforcement groups that have joined the brief have an obvious interest in ensuring that schools remain free of gun crime and violence. In addition, the law enforcement community has an equally strong interest in preserving federal regulatory authority over firearms as a necessary supplement to state and local authority.

Brief descriptions of each of the education and law enforcement groups follow.

- The American Federation of Teachers is a national labor union affiliated with the AFL-CIO, which represents more than 800,000 members who work in public elementary and secondary schools, community colleges and universities, state government and health care.

- The Council of Great City Schools is a coalition of the nation's largest urban public schools. The Council works

---

[1] Counsel for both petitioner and respondent have consented to the filing of this brief *amici curiae*. Their consents are on file with the Clerk of the Court.

to improve education for the nation's inner city children through legislative advocacy, research, the media and other special projects.

- The National Association of Elementary School Principals is a professional organization serving more than 25,000 elementary and middle school principals and other educators throughout the world.
- The National Association of Secondary School Principals is a voluntary association of approximately 43,000 administrators of public and private secondary schools throughout the United States.
- The National Education Association is a nationwide labor organization with a current membership of more than 2 million education employees.
- The National PTA, a not-for-profit organization with more than 6.9 million members, is devoted to parental involvement in the education, safety and protection of children, and has been a major supporter of the Gun-Free School Zones Act.
- The Major Cities Chiefs of Police is made up of the chief executives of forty-seven of the larger city police departments in the United States.
- The International Association of Chiefs of Police is the largest organization of police executives and line officers in the world, consisting of more than 14,000 members in seventy-two nations.
- The National Association of Police Organizations is a national law enforcement organization representing more than 157,000 law enforcement officers and 3,000 police unions and organizations throughout the United States.
- The Fraternal Order of Police is the nation's largest rank and file group with 248,000 members, forty-three state lodges and more than 1,700 local lodges.

- The Federal Law Enforcement Officers Association, with more than 8,000 members, is the largest professional association in the nation exclusively representing federal law enforcement officers and criminal investigators.

- The Police Executive Research Forum ("PERF") is an organization of progressive law enforcement executives who serve more than thirty-five percent of the nation's population. PERF members are dedicated to improving policing practices through leadership, research, experimentation and debate.

- The National Organization of Black Police Enforcement Executives has 3,500 members, including police chiefs, command-level law enforcement officials and criminal justice educators.

All of these *amici* are concerned that Congress not be subject to the sorts of constraints imposed by the court below when exercising its authority under the Commerce Clause to regulate guns and gun violence. Rather, so long as Congress could rationally have concluded that gun possession, whether generally or specifically in school zones, affects interstate commerce, Congress's authority to enact the Gun-Free School Zones Act should be upheld. It is clear that Congress could properly have arrived at such a conclusion, given the tremendous toll imposed on the national economy by guns and gun violence.

SUMMARY OF THE ARGUMENT

Sixty-five students and six school employees were shot and killed at school during the academic years 1986 through 1990. An additional 201 individuals were severely wounded by firearms at school during that same period. And 242 more were taken hostage at gunpoint on school premises.

In 1990, Congress responded to this alarming increase in gun violence in the schools by enacting the Gun-Free School Zones Act, Pub. L. No. 101- 657, Title XVII, 104 Stat. 4844 (codified at 18 U.S.C. § 922(q)(1)(A) (Supp. IV 1992)). The Act amended the existing federal criminal statute regulating the possession and

sale of firearms in order to address the growing national problem of guns in and around schools. The Act prohibits "any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a school zone." 18 U.S.C. § 922(q)(1)(A).[2]

Congress was acting well within its constitutional authority under the Commerce Clause in adopting the Gun-Free School Zones Act. This Court has recognized that the "pertinent inquiry" when a federal statute is challenged under the Commerce Clause is "whether Congress could rationally conclude that the regulated activity affects interstate commerce." *Hodel v. Indiana*, 452 U.S. 314, 324 (1981). It is unnecessary for Congress to have expressly invoked the Commerce Clause or to have made specific findings as to the nexus between the regulated activity and interstate commerce. Indeed, to insist that Congress articulate the precise basis for exercising its authority, as did the court below, would constitute an "unprecedented imposition of adjudicatory procedures upon a coordinate branch of Government." *Fullilove v. Klutznick*, 448 U.S. 448, 503 (1980) (Powell, J., concurring).

Clearly, Congress could have found that firearm possession and use, whether generally or in school zones, has a devastating impact on interstate commerce. Tens of thousands of Americans are killed each year by firearms, and hundreds of thousands suffer debilitating injuries. Among them are the many students, teachers and others who are killed or injured as a result of gun violence in and near schools. These firearm injuries impose a substantial burden on the nation's health care, insurance and public welfare systems. Additional students and teachers are emotionally, even if not physically, wounded by guns in and near schools. The resulting climate of fear threatens to drive teachers from the classroom and to prevent students from developing into fully productive members of American society.

---

[2] A school zone is defined as a place in, on the grounds of, or within a distance of 1,000 feet from the grounds of a public, parochial or private elementary or secondary school. 18 U.S.C. § 921(a)(25).

ARGUMENT

CONGRESS WAS ACTING WITHIN ITS CONSTITUTIONAL AUTHORITY TO REGULATE INTERSTATE COMMERCE WHEN IT ADOPTED THE GUN-FREE SCHOOL ZONES ACT

The Constitution grants Congress the authority, without limitation, "[t]o regulate commerce . . . among the several States." U.S. Const. art. I, § 8, cl. 3. The Court has repeatedly recognized that "'[t]he power of Congress to regulate interstate commerce is plenary and extends to all such commerce be it great or small.'" *Hodel v. Indiana*, 452 U.S. 314, 321 (1981) (quoting *NLRB v. Fainblatt*, 306 U.S. 601, 606 (1939)); *accord Gibbons v. Ogden*, 22 U.S. (9 Wheat.) 1, 196 (1824).

It is now well-established that Congress may regulate even purely local activities under the Commerce Clause, as augmented by the Necessary and Proper Clause, wherever such activities "so affect interstate commerce, or the exertion of power of Congress over it, as to make regulation of them appropriate means to the attainment of a legitimate end." *United States v. Wrightwood Dairy Co.*, 315 U.S. 110, 119 (1942). As Justice Jackson, speaking for a unanimous Court, explained in *Wickard v. Filburn*:

> [E]ven if appellee's activity be local and though it may not be regarded as commerce, it may still, whatever its nature, be reached by Congress if it exerts a substantial economic effect on interstate commerce, and this irrespective of whether such effect is what might at some earlier time have been defined as "direct" or "indirect."

317 U.S. 111, 125 (1942). Accordingly, so long as "the *class of activities* is regulated and that *class* is within the reach of federal power" under the Commerce Clause, "the courts have no power

'to excise, as trivial, individual instances' of the class." *Perez v. United States*, 402 U.S. 146, 154 (1971) (citation omitted).[3]

The Court of Appeals invalidated the Gun-Free School Zones Act on the ground that Congress did not expressly articulate a nexus between interstate commerce and the problem of guns at or near schools. But all that this Court has demanded -- and all that may properly be demanded of a co-equal branch of Government -- is that such a nexus could rationally be found to exist. This standard is more than satisfied here.

A. Congress Does Not Exceed Its Authority Under The Commerce Clause So Long As The Regulated Activity Could Rationally Be Found To Affect Interstate Commerce

A statute enacted by Congress pursuant to its power "[t]o regulate commerce . . . among the several States," U.S. Const. art. I, § 8, cl. 3, comes to this Court with "'a presumption of constitutionality.'" *Hodel v. Indiana*, 452 U.S. at 323 (quoting *Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 15 (1976)). Congress cannot be held to have exceeded its authority to regulate under the Commerce Clause unless "no rational basis" could exist for "a congressional finding that the regulated activity affects interstate commerce." *Id.* at 323-24; *see also Perez*, 402 U.S. at 152-56; *Heart of Atlanta Motel, Inc. v. United States*, 379 U.S.

---

[3] The Court has thus recognized that Congress has the authority under the Commerce Clause to set quotas limiting local wheat production because "[h]omegrown wheat . . . competes with wheat in commerce," *Wickard*, 317 U.S. at 128-29; to prohibit racial discrimination even by restaurants not frequented by interstate travelers in order to eliminate obstacles to interstate travel by black citizens, *Katzenbach v. McClung*, 379 U.S. 294, 300-02 (1964); to proscribe "[e]xtortionate credit transactions, though purely intrastate," because "there is a tie-in between local loan sharks and interstate crime," *Perez*, 402 U.S. at 154-55; and to protect farmland from surface coal mining in order to prevent "losses in agricultural productivity" that "affect[] interstate commerce in agricultural products," *Hodel v. Indiana*, 452 U.S. at 324-26.

241, 258, 262 (1964). In other words, "[t]he pertinent inquiry therefore is . . . whether Congress could rationally conclude that the regulated activity affects interstate commerce." *Hodel v. Indiana*, 452 U.S. at 324.

It is unnecessary for Congress to have explicitly invoked the Commerce Clause as the source of its authority to regulate firearms at or near schools. The "'constitutionality of action taken by Congress does not depend on recitals of the power which it undertakes to exercise.'" *EEOC v. Wyoming*, 460 U.S. 226, 243-44 n.18 (1983) (quoting *Woods v. Cloyd W. Miller Co.*, 333 U.S. 138, 144 (1948)). Nor need Congress have made findings or amassed evidence as to the nexus between interstate commerce and gun possession. "Congress, of course, may legislate without compiling the kind of 'record' appropriate with respect to judicial or administrative proceedings." *Fullilove v. Klutznick*, 448 U.S. 448, 478 (1980) (Burger, C.J.); *see also Katzenbach v. McClung*, 379 U.S. 294, 304 (1964) ("formal findings" of an interstate commerce nexus "of course are not necessary").

The courts' inquiry into whether Congress could rationally have concluded that gun possession has the requisite effect on interstate commerce is thus quite narrow: It "must be restricted to the issue whether any state of facts either known or which could reasonably be assumed affords support for [such a conclusion]." *United States v. Carolene Products Co.*, 304 U.S. 144, 154 (1938). The judiciary does "not substitute its judgment for that of Congress unless the relation of the subject to interstate commerce and its effect upon it are clearly non-existent." *Hodel v. Indiana*, 452 U.S. at 326 (quoting *Stafford v. Wallace*, 258 U.S. 495, 523 (1922)).[4]

---

[4] The Court recently reiterated an analogous standard in the context of an equal protection challenge to an Act of Congress:

> [B]ecause we never require a legislature to articulate its reasons for enacting a statute, it is entirely irrelevant for constitutional purposes whether the conceived reason for the challenged distinction actually motivated the legislature . . . . In other

This deferential standard of review of Congress's exercise of its authority under the Commerce Clause, as under other provisions of the Constitution, is not a judicial abdication of responsibility. It is instead an essential concomitant of the constitutional separation of powers. This Court has explained that it "accords 'great weight to the decisions of Congress'" precisely because "Congress is a coequal branch of government whose Members take the same oath we do to uphold the Constitution." *Rostker v. Goldberg*, 453 U.S. 57, 64 (1981) (quoting *Columbia Broadcasting System, Inc. v. Democratic National Comm.*, 412 U.S. 94, 102 (1973)); *see also Metro Broadcasting, Inc. v. FCC*, 497 U.S. 547, 563 (1990) ("we are '*bound* to approach our task with appropriate deference to the Congress, a co-equal branch'" of the Government, in passing on the constitutionality of federal statutes) (quoting *Fullilove*, 448 U.S. at 472 (Burger, C.J.)) (emphasis added).

To require Congress to articulate the precise source of authority for its enactments -- as the Fifth Circuit did in this case -- would offend settled separation of powers principles. As Justice Powell explained in *Fullilove*:

> Such a requirement would mark an unprecedented imposition of adjudicatory procedures upon a coordinate branch of Government. Neither the Constitution nor our democratic tradition warrants such a constraint on the legislative process.

448 U.S. at 503 (Powell, J., concurring). Indeed, if Congress were suddenly to be required to "articulate its reasons for enacting a statute," *FCC v. Beach Communications, Inc.*, 113 S. Ct. 2096,

---

> words, a legislative choice is not subject to courtroom fact-finding and may be based on rational speculation unsupported by evidence or empirical data.

FCC v. Beach Communications, Inc., 113 S. Ct. 2096, 2102 (1993).

2102 (1993), the continued validity of many other provisions on the statute books might well be called into question.[5]

The Fifth Circuit erroneously held that the presumption of constitutionality that ordinarily attaches to Acts of Congress had "less force" in this case. Pet. App. 45a. The court reasoned that a federal statute that deals with what has "traditionally been a state responsibility" -- *e.g.*, "the general control of simple firearms possession by ordinary citizens" -- implicates the Tenth Amendment and thus must be justified by explicit congressional findings. *Id.* Any such exception to the presumption of constitutionality would quickly swallow the rule, however, given that many statutes enacted under the Commerce Clause involve activity once regulated only by the states.[6]

---

[5] For example, 18 U.S.C. § 922(o) -- part of the same section of the U.S. Code as the Gun-Free School Zones Act -- bans the mere possession of machine guns, without limitation to those bought, sold or transferred in interstate commerce. Similarly, 18 U.S.C. § 922(p) prohibits, *inter alia*, the possession or receipt of "undetectable" firearms. If the Fifth Circuit's novel standard of review were to prevail, the continued validity of these two provisions would be called into question. So, too, would the validity of the ban on the possession of semi-automatic assault weapons that has recently been passed by both Houses of Congress. *See* 140 Cong. Rec. H3111 (daily ed. May 5, 1994). It is of particular concern to these *amici*, including seven law enforcement organizations, that these common-sense laws that promote public safety not be undermined.

[6] The statutes challenged under the Commerce Clause in *Carolene Products*, *McClung* and *Perez*, for example, also involved activities whose regulation had traditionally been a state responsibility -- the sale of adulterated foods, *see Carolene Products*, 304 U.S. at 150 n.2 (citing state statutes that preceded federal statute); a hotel or restaurant owner's exercise of its "right to choose its customers and operate its business as it wishes," *Heart of Atlanta Motel*, 379 U.S. at 244; *see id.* at 259 n.8 (citing state statutes that preceded federal statute); and the extortionate lending and collection activities of local "loan sharks," *see Perez*, 402 U.S. at 149 (quoting congressional opponent's comment that statute

The Fifth Circuit "dr[e]w support" for its insistence on explicit congressional findings from a line of cases requiring that when Congress intends to intrude on state prerogatives, Congress must articulate that intent clearly. Pet. App. 46a-47a (citing *Gregory v. Ashcroft*, 111 S. Ct. 2395 (1991); *Pennsylvania v. Union Gas*, 491 U.S. 1 (1989); *United States v. Bass*, 404 U.S. 336 (1971)). But the statutory construction issue in those cases -- *i.e.*, whether or not Congress intended to reach certain activity -- is quite different from the constitutional issue in this case. No question exists as to what activity Congress intended to reach in the Gun-Free School Zones Act. And thus no risk exists here, as in *Gregory* and *Union Gas*, of unintended federal intrusion into areas traditionally reserved to the states. Instead, the question in this case is whether Congress's unambiguous intent to regulate gun possession in and near schools is to be judicially nullified merely because Congress did not make explicit findings as to the nexus between gun possession and interstate commerce. As in *Fullilove*, however, "[n]either the Constitution nor our democratic tradition warrants such a constraint on the legislative process." 448 U.S. at 503 (Powell, J., concurring).

B. Congress Could Rationally Have Concluded That The Gun-Free School Zones Act Regulates Activity That Affects Interstate Commerce

The Gun-Free School Zones Act satisfies constitutional scrutiny under the proper Commerce Clause inquiry: "whether Congress could rationally conclude that the regulated activity affects interstate commerce." *Hodel v. Indiana*, 452 U.S. at 324. The possession of guns, as a general matter, affects interstate commerce, as demonstrated by facts before Congress during its consideration of the Act. Moreover, gun possession in and near

---

would "'permit prosecution in Federal as well as State courts of a typically State offense'"). Yet, the Court recognized in each of these cases that formal findings of a nexus with interstate commerce were unnecessary. *See Carolene Products*, 304 U.S. at 152-53; *McClung*, 379 U.S. at 304; *Perez*, 402 U.S. at 156.

schools has particular adverse effects on commerce today and far into the future.

It must be emphasized at the outset that Congress was not legislating on a blank slate with the Gun-Free School Zones Act. Congress has not come recently to the regulation of firearms, or to the recognition of the nexus between firearms and commerce. The text of the comprehensive federal firearms statute, of which the Gun-Free School Zones Act is now a part, recognizes that firearms are shipped and carried in interstate commerce, *e.g.*, 18 U.S.C. § 922(a)(1),(e); that firearms are sold and traded across state lines, *e.g.*, 18 U.S.C. § 922(a)(5); and indeed that simple possession of a firearm can "affect[] commerce," *e.g.*, 18 U.S.C. § 922(g),(h). *See also* Pub. L. No. 90-351, § 901(a)(1), 82 Stat. 225 (1968) (congressional findings that "there is a widespread traffic in firearms moving in or otherwise affecting interstate or foreign commerce"). The legislative history of these earlier gun control provisions also evinces an understanding of the widespread use of firearms in activity that affects interstate commerce. *See*, *e.g.*, H.R. Rep. No. 99-495, 99th Cong., 2d Sess., at 4, *reprinted in* 1986 U.S.C.C.A.N. 1327, 1330 (machine guns are "used by racketeers and drug traffickers for intimidation, murder, and protection of drugs and the proceeds of crime").

Congress's earlier determinations as to the nexus between firearms and interstate commerce may inform the analysis of whether Congress could rationally have found such a nexus with respect to the activity reached by the Gun-Free School Zones Act. *See generally Metro Broadcasting*, 497 U.S. at 572 ("After Congress has legislated repeatedly in an area of national concern, its Members gain experience that may reduce the need for fresh hearings or prolonged debate when Congress again considers

action in that area.") (quoting *Fullilove*, 448 U.S. at 502-03 (Powell, J., concurring)).[7]

1. Congress could rationally have found that firearm possession, as a general matter, affects interstate commerce.

Gun possession affects interstate commerce in multiple ways. It is the rare firearm that has not been sold or transported in interstate commerce, or that does not contain components that have been so sold or transported. But guns have their most significant impact on interstate commerce when they are used to kill, to injure, to intimidate and to commit other crimes.

The possession of a firearm is, of course, an essential first step in the use of a firearm. And firearms are used against human beings hundreds of times each day in the United States. The costs of this gun violence -- not only in human terms, but also in economic terms -- are devastating to American society. These costs would fully justify a congressional conclusion that gun possession, wherever it occurs, has a substantial effect on interstate commerce.

---

[7] The Gun-Free School Zones Act has been upheld under the Commerce Clause by several lower courts. *E.g.*, *United States v. Edwards*, 13 F.3d 291 (9th Cir. 1993); *United States v. Holland*, 841 F. Supp. 143 (E.D. Pa. 1993); *United States v. Glover*, 842 F. Supp. 1327 (D. Kan. 1994); *United States v. Ornelas*, 841 F. Supp. 1087 (D. Colo. 1994). Courts have similarly upheld other laws criminalizing gun possession without an express commerce nexus or statutory findings. *E.g.*, *United States v. Hale*, 978 F.2d 1016 (8th Cir. 1992) (upholding 18 U.S.C. § 922(o), which prohibits possession of machine guns), *cert. denied*, 113 S. Ct. 1614 (1993); *United States v. Evans*, 928 F.2d 858 (9th Cir. 1991) (same); *United States v. Hunter*, 843 F. Supp. 235 (E.D. Mich. 1994) (same); *see also United States v. McDougherty*, 920 F.2d 569 (9th Cir. 1990) (upholding conviction for possession of drugs in school zone under 21 U.S.C. §§ 841(a)(1), 845a), *cert. denied*, 499 U.S. 911 (1991).

In 1985, five years before the Gun-Free School Zones Act was enacted, guns caused "nearly 268,000 injuries, including 31,556 fatalities" in the United States.[8] These firearm injuries cost American society an estimated $14.4 billion, according to the 1989 report *Cost of Injury in the United States: A Report to Congress*.[9] The *Cost of Injury* report calculated the direct costs of the 1985 firearm injuries at $911,411,000 in actual out-of-pocket spending for goods and services: $863,586,000 for medical care, $13,743,000 in home modification and vocational rehabilitation expenses for survivors of firearm injuries, and $34,082,000 in administrative costs to the insurance industry.[10] The remaining $13.5 billion represented the indirect costs to society of workers' (including homemakers') lost productivity due to firearm injuries.[11]

The analysis of the costs of firearm injuries was later updated to 1990 to take into account changes in the number of such injuries, patterns of health care use and inflation. The total cost of the firearm injuries that occurred in 1990 was estimated at

---

[8] Wendy Max & Dorothy P. Rice, *Data Watch: Shooting In The Dark: Estimating The Cost of Firearm Injuries*, Health Affairs (Winter 1993) 171, 176 (hereinafter "Max & Rice").

[9] Dorothy P. Rice *et al.*, *Cost of Injury in the United States: A Report to Congress 50* (1989) (hereinafter "*Cost of Injury*"); *see also* Max & Rice at 176, 180 (discussing *Cost of Injury* analysis); Garen J. Wintemute & Mona A. Wright, *Initial and Subsequent Hospital Costs of Firearm Injuries*, 33 J. Trauma 556 (1992) (same).

[10] Max & Rice at 177-79; *see also Cost of Injury* at 55.

[11] Max & Rice at 173, 177; *see also Cost of Injury* at 58, 63. This figure includes the value of time lost from individuals' usual work or household activities because of firearm-related injuries and the current monetary value of future output lost due to premature firearm-related death.

$20.4 billion, including $1.4 billion in direct medical, rehabilitation and insurance costs.[12]

These estimates do not even include the costs to society of the many crimes, such as robbery, rape and kidnapping, that are carried out with the use of firearms. They likewise do not include the costs incurred when citizens, especially those of the inner city, are so fearful of gun violence that they become virtual prisoners in their homes. Nor do they include the costs to communities whose economic development is threatened by their association with gun violence.[13]

All of these costs associated with gun violence may appropriately be considered in determining whether a nexus could rationally be found to exist between gun possession and interstate commerce. As *Wickard v. Filburn* made clear, the relevant inquiry is whether the regulated activity may be deemed to have "a substantial economic effect on interstate commerce," not whether the effect is "direct" or "indirect." 317 U.S. at 125. In much the same manner that the loan sharking in *Perez v. United States* affected interstate commerce by providing organized crime with the means by which to "finance its national operations," 402 U.S. at 157, gun possession affects interstate commerce by providing individuals with the means by which to commit the

---

[12] Max & Rice at 181.

[13] There was specific testimony about the economic impact of gun violence on community development at the congressional hearing on another provisions of the Comprehensive Crime Control Act, the omnibus bill in which the Gun-Free School Zones Act was included. Barbara Fass, the mayor of Stockton, California, described the effects of a mass shooting in 1989 at a local school. "It impacts our ability to affect economic development," Mayor Fass testified, "because we are the city where the tragedy occurred." *Automatic Assault Weapons Act of 1989: Hearings on H.R. 1190 and Related Bills Before the Subcomm. on Crime of the House Comm. on the Judiciary*, 101st Cong., 1st Sess. 141 (1989) (statement of Mayor Barbara Fass).

killings, assaults and property crimes that so severely tax the national economy.

The *Cost of Injury* analysis alone provides an ample factual basis for a congressional conclusion that firearm possession has the requisite effect on interstate commerce. Any activity whose annual consequences impose actual out-of-pocket costs of $1.4 billion on individuals, insurance companies and federal, state and local governments necessarily "is 'commerce which concerns more States than one' and has a real and substantial relation to the national interest.'" *Heart of Atlanta Motel*, 379 U.S. at 255. Moreover, victims of firearm injuries travel from one state to another to obtain medical and rehabilitative services; pharmaceuticals, medical supplies and equipment to care for these individuals also are transported in interstate commerce; and sums of money are transferred across state lines from private insurers and government agencies to hospitals, physicians, disabled victims and others.

Gun possession and consequent gun violence also affect commerce for many of the same reasons that other activity has been found to affect commerce: They "exact[] millions from the pockets of people," *Perez*, 402 U.S. at 156, as a result of property crimes committed by persons wielding firearms. They "degrad[e] the quality of life in local communities" by turning streets, parks and even schools into battle zones, "damag[e] the property of citizens" and "deter[] professional, as well as skilled, people from moving into [certain] areas . . . and thereby caus[e] industry to be reluctant to establish there." *Hodel v. Virginia Surface Mining & Reclamation Ass'n*, 452 U.S. 264, 277 (1981); *Katzenbach v. McClung*, 379 U.S. at 300. They also "counteract[] governmental programs and efforts," *Hodel v. Virginia Surface Mining & Reclamation Ass'n*, 452 U.S. at 277, in such fields as crime control, public health, urban development and education.

Congress need not have actually been aware of the *Cost of Injury* analysis, or other facts demonstrating the nexus between gun possession and interstate commerce, during its deliberations

on the Gun-Free School Zones Act. *See Carolene Products Co.*, 304 U.S. at 154 (Congress's determination that an activity affects interstate commerce must be sustained so long as "any state of facts either known or which could reasonably be assumed affords support for it"). But many members of Congress were, in fact, aware of such analyses of the economic impact of firearm injuries. *Cost of Injury*, as its subtitle reveals, was prepared in 1989 as "A Report to Congress." It was specifically called for by the House of Representatives in supplemental appropriations legislation in 1987, and was funded by the Centers for Disease Control and the National Highway Traffic Safety Administration.[14] Members of Congress have since cited the report's findings in a variety of contexts.[15] A determination that Congress could rationally have found firearm possession to affect interstate commerce, *see Hodel v. Indiana*, 452 U.S. at 324, is particularly justified where the facts supporting such a determination were actually before Congress.

To be sure, Congress has not regulated all firearm possession, but only possession by certain persons (*e.g.*, felons, drug addicts, mental incompetents), or of certain categories of weapons (*e.g.*, machine guns, guns not detectable by metal detectors), and in certain places (*e.g.*, schools and their environs). *See* 18 U.S.C. § 922(g), (o), (p)(1), (q)(1)(A). But it is a "well-established concept that a legislature may take one step at a time to remedy only part of a broader problem." *Fullilove*, 448 U.S. at 485 (Burger, C.J.). That gun possession, in general, affects interstate

---

[14] *Cost of Injury* at v-vii.

[15] *See, e.g.*, 135 Cong. Rec. E4059 (daily ed. Nov. 21, 1989) (statement of Rep. Walgren); 136 Cong. Rec. S6250 (daily ed. May 15, 1990) (statement of Sen. Kennedy); 136 Cong. Rec. S15609 (daily ed. Oct. 17, 1990) (statement of Sen. Cranston); 138 Cong. Rec. E2492 (daily ed. Aug. 12, 1992) (statement of Rep. Solarz); 139 Cong. Rec. S5402 (daily ed. May 4, 1993) (statement of Senator Murray); 140 Cong. Rec. S59 (daily ed. Jan. 25, 1994) (statement of Senator Bradley citing updated *Cost of Injury* figures for 1990); 140 Cong. Rec. S2172 (daily ed. March 1, 1994) (statement of Sen. Metzenbaum).

commerce should be sufficient, therefore, to allow Congress to take the lesser step of regulating gun possession in school zones. After all, gun possession and gun violence do not affect commerce any less when they occur in and around schools. Indeed, as demonstrated below, guns in school zones have particularly pernicious effects on commerce.[16]

2. Congress could rationally have found that the possession of firearms in school zones affects interstate commerce.

Congress could rationally have concluded that interstate commerce is adversely affected not only by gun possession generally, but also by gun possession at and in the vicinity of schools. These effects are measured by lost lives, debilitating injuries, abandoned teaching careers and severe disruption of the schools' educational mission.

It had become evident by 1990, the year when Congress adopted the Gun-Free School Zones Act, that gun possession in and around the nation's schools was increasing. So, too, was gun violence.

As testimony at the House Subcommittee on Crime hearing into the Gun-Free School Zones Act revealed, 135,000 students carried handguns to school daily in 1987, and 270,000 more carried handguns at least once during that year.[17] Statistics from

---

[16] *See generally United States v. McDougherty*, 920 F.2d at 372 ("Congress has already determined, and the courts have accepted as rational, that drug trafficking affects interstate commerce. It would be highly illogical to believe that such trafficking somehow ceases to affect commerce when carried out within 1000 feet of a school.") (citations omitted).

[17] *Gun-Free School Zones Act of 1990: Hearing on H.R. 3757 Before the Subcomm. on Crime of the House Comm. on the Judiciary*, 101st Cong., 2d Sess. 7 (1990) (statement of Rep. Feighan) [hereinafter "House Hearing"]. Similar statistics were cited by the Senator Kohl, the sponsor of the Gun-Free School Zones Act, during Senate debate on the

particular school districts also reveal the prevalence of guns at schools. The police chief of Cleveland, Ohio, told the House subcommittee that some 200 guns had been seized in school-related incidents in his city between 1983 and 1990.[18] An investigation in Baltimore, Maryland, found that almost fifty percent of all male students had carried a gun to school in 1987.[19] A study of students at thirty-one high schools in Illinois revealed that five percent of all students had carried a gun to school in 1990.[20]

All too often, these guns are used. So, too, are the guns wielded at or in the vicinity of schools by non-students, including mentally disturbed individuals, drug dealers and others with a personal grievance against students or school employees. Among the incidents called to the attention of the House Subcommittee on Crime were the following:

- In January 1989, a deranged man armed with an AK-47 assault rifle fired on a crowded schoolyard in Stockton, California. Five students were killed. Twenty-nine students and a teacher were wounded. The gunman then took his own life.[21]

---

measure. *See* 136 Cong. Rec. S17595 (daily ed. Oct. 27, 1990 ("more than a quarter of a million students carry guns to school every day" and "more than a quarter of a million students brought a handgun to school at least once in 1987").

[18] House Hearing at 25 (statement of Police Chief Edward Kovacic).

[19] Grand Jury Report on Juveniles and Firearms, Circuit Court for Baltimore City, 1987 May Term.

[20] Illinois Criminal Justice Information Authority, *Trends & Issues 91: Education & Criminal Justice in Illinois* 40 (Nov. 1991).

[21] House Hearing at 1; *see also Automatic Assault Weapons Act of 1989: Hearings on H.R. 1190 and Related Bills Before the Subcomm. on Crime of the House Comm. on the Judiciary*, 101st Cong., 1st Sess. 141-42 (1989) (statement of Mayor Barbara Fass).

- Also in January 1989, a gunman opened fire on a crowd of students outside a high school in Washington, D.C. Four students were wounded. The shooting followed a lunch-time argument, possibly over drugs, between students and outsiders in the school cafeteria.[22]

- In September 1988, a 19-year-old former mental patient opened fire in the classroom and cafeteria of a school in Greenwood, South Carolina. Two students were killed. Two teachers and seven students were wounded.[23]

- In May 1988, a woman shot six students in the washroom and classroom of an elementary school in Winnetka, Illinois. One of the students was killed, while the other five were seriously injured.[24]

All told, at least seventy-one individuals -- sixty-five students and six school employees -- were killed with guns at schools during the academic years 1986 through 1990, according to evidence submitted to the Subcommittee on Crime.[25] An additional 201 persons were severely wounded, and 242 were held hostage at gunpoint.[26] Few states were immune from these incidents. At least thirty-five states and the District of Columbia

---

[22] House Hearing at 78; *see also* Terry Atlas, *4 Students Wounded Leaving D.C. School*, Chicago Tribune, Jan. 27, 1989, at 4M.

[23] House Hearings at 41; *see also Second Victim Dies After School Shooting Incident*, New York Times, Sept. 30, 1988, at B-5.

[24] House Hearings at 1, 7; *see also* Robert Enstad & David Ibata, *School Rampage: 1 Dies, 6 Shot Suspect Kills Self After Siege in Winnetka*, Chicago Tribune, May 21, 1988, at 1.

[25] Center to Prevent Handgun Violence, *Caught in the Crossfire: A Report on Gun Violence in our Nation's Schools* (Sept. 1990), *reprinted in* House Hearing at 81.

[26] *Id.*

reported at least one school shooting or armed hostage situation during the period.[27]

According to the *Cost of Injury* methodology for 1985 firearm injuries -- which estimates the total costs to society at $387,235 per fatality and $29,870 per non-fatal injury requiring hospitalization[28] -- these seventy-one firearm deaths and 201 firearm injuries cost society $33,497,555. This figure does not include the costs associated with many firearm injuries that occured off school property but within the 1,000-foot perimeter around schools encompassed by the Gun-Free School Zones Act.

The substantial costs of these injuries are sufficient in themselves to justify a congressional determination that gun possession in and around schools affects interstate commerce. But these are not the only effects on commerce resulting from guns in school zones.

As revealed during the House Subcommittee on Crime hearing on the Gun-Free School Zones Act, gun possession in the vicinity of schools is associated with drug dealing, an activity that Congress has recognized to affect interstate commerce. *See* 21 U.S.C. § 801(3)-(6). An official of the Bureau of Alcohol, Tobacco and Firearms described a federal-state operation in 1990 against drug dealers near elementary and secondary schools in Detroit, Michigan. Twenty-one firearms, including assault weapons, handguns and rifles, were seized during the operation.[29] The police chief of Cleveland also noted the association between gun possession and drug dealing during his testimony before the House subcommittee.[30] The Gun-Free School Zones Act was thus viewed by its congressional sponsors

---

[27] *Id.*

[28] *Cost of Injury* at 53.

[29] House Hearings at 14-15 (testimony of Richard Cook, Chief, Firearms Div., Bureau of Alcohol, Tobacco and Firearms).

[30] *Id.* at 25 (statement of Police Chief Edward Kovacic).

as a means of "keep[ing] the areas around our schools from becoming sanctuaries for . . . drug gangs."[31]

Some of the most devastating effects of guns in school zones may not be felt until today's students become adults. These students are being denied the secure academic environment that is so vital to their intellectual, emotional and social development, and thus ultimately to their ability to compete in the economy of the future. As Secretary of Education Richard Riley has observed, the threat of violence in the schools "creates an environment where children cannot learn, teachers cannot teach, and parents are reluctant to send their children to school."[32]

The same point was made in testimony before the House Subcommittee on Crime during its consideration of the Gun-Free School Zones Act. It was observed that fear of gun violence at school is "a significant factor in the dropout rate," "threatens the education goals related to student achievement," and "impedes the ability of schools to attract and retain qualified school personnel."[33] According to a National Education Association report that was called to the subcommittee's attention, "about 8 percent of junior and senior high school students had missed at

---

[31] 136 Cong. Rec. S17595-96 (daily ed. Oct. 27, 1990) (statement of Sen. Kohl). Similarly, Representative Feighan observed that "because guns and drugs often are found in close proximity, eliminating guns will contribute to the war against drugs." 135 Cong. Rec. E3988 (daily ed. Nov. 20, 1989).

[32] *Safeguarding Our Youth: Violence Prevention for Our Nation's Children*, Forum Proceedings 8 (July 20-21, 1993) (conference sponsored by National School Safety Center and the United States Departments of Education, Justice, Health and Human Services and Housing and Urban Development).

[33] House Hearing at 46 (statement of Joel Packer, Legislative Specialist, National Education Association and National PTA).

least 1 day of school a month the previous year because they were simply afraid to go to school."[34]

Studies substantiate that exposure to violence has long-lasting adverse effects on children -- effects that may impair their ability to develop into productive members of society. The Journal of the American Medical Association recently reported that exposure to violence affects children's "ability to function in school, emotional stability, and orientation toward the future."[35] These children may display symptoms associated with "post-traumatic stress disorder," including "diminished ability to concentrate in school, persistent sleep disturbances . . . and a nihilistic, fatalistic orientation to the future, which leads to increased risk-taking behaviors."[36]

It should finally be noted that the Senate last year adopted an amendment to the Gun-Free School Zones Act that contains express findings as to the nexus between guns in and around schools and interstate commerce. Violent Crime Control & Law Enforcement Act of 1993, H.R. 3355, § 2972, 103d Cong., 1st Sess. (reprinted as amended by the Senate at 139 Cong. Rec. S17153-54 (daily ed. Nov. 24, 1993)). The Senate declared that "the occurrence of violent crime in school zones has resulted in a decline in the quality of education in our country" and that "this decline in the quality of education has an adverse impact on interstate commerce and the foreign commerce of the United States." 139 Cong. Rec. at S17154. We do not suggest that these Senate findings, which were adopted subsequent to the Gun-Free School Zones Act and which have yet to be adopted by the House, be read into the Act under which respondent was

---

[34] *Id.* at 7 (statement of Rep. Feighan).

[35] *Silent Victims, Children Who Witness Violence*, 269 JAMA 262 (Jan. 13, 1993).

[36] *Id.*; *see also* American Psychological Ass'n, *Violence & Youth: Psychology's Response, Vol. I: Summary Report of the American Psychological Ass'n Comm'n on Violence & Youth* 42 (1993).

prosecuted. But these findings are nonetheless relevant to the Commerce Clause analysis. At a minimum, they serve to confirm that guns in school zones may rationally be found -- as the Senate has, in fact, found -- to affect interstate commerce by detracting from the "the quality of education in our country."[37]

In sum, Congress could rationally have concluded that gun possession and consequent gun use in and around schools have a substantial impact on interstate commerce in any of several ways: Students, teachers and others are killed and severely injured in the gunfire, thus generating enormous medical, rehabilitation, insurance and lost productivity costs. Other crimes affecting commerce, such as drug dealing, are facilitated. Teachers are driven from their classrooms, if not from the profession entirely. And students are denied the secure academic environment conducive to acquiring the knowledge, skills and attitudes that they will need to compete in the national, indeed global, economy of the future.

---

[37] The court below suggested that, if Congress could prohibit gun possession in school zones without express findings as to a nexus with interstate commerce, Congress "could also similarly ban lead pencils, 'sneakers,' Game Boys, or slide rules." Pet. App. 51a. The Fifth Circuit might well be correct if slide rules, for example, had been used to cause 272 schoolyard deaths and serious injuries over a four-year period, if slide rules were routinely carried by drug dealers, and if students avoided school and were unable to learn while at school out of fear over slide rule violence. But the consequences of gun possession and use in school zones are of an entirely different character and magnitude than the consequences of slide rule possession and use. Accordingly, in concluding that Congress has the authority under the Commerce Clause to deal with the extraordinary problem of guns in school zones, the Court need not conclude that Congress would also have the authority to deal with whatever lesser problems might be posed by slide rules, pencils, sneakers or Game Boys.

CONCLUSION

For the foregoing reasons, the judgment of the Fifth Circuit should be reversed.

Respectfully submitted,

Of Counsel:
DENNIS A. HENIGAN
GAIL A. ROBINSON
CENTER TO PREVENT HANDGUN VIOLENCE
LEGAL ACTION PROJECT
1225 Eye Street, N.W.
Washington, D.C. 20005
(202) 289-7319

ERWIN N. GRISWOLD
Counsel of Record
BARBARA McDOWELL
PETER J. WANG
JONES, DAY, REAVIS & POGUE
1450 G Street, N.W.
Washington, D.C.
(202) 879-3939

Counsel for the Amici

June 2, 1994